his experience has been gained in his capacity as a Municipal servant and that therefore one may expect him as a matter of habit to assess value within reason at as low or as high a figure as may suit the interests of his employers. And I recognise that in this case it is to the interest of his Employers to assess the value of this land as low as possible. Making due discount for this I was, nevertheless, impressed by his evidence He seems to me to have come to his figure by the most scientific method open to him—i.e. by corroborating his own expert opinion by the evidence of as recent sales in the neighbourhood as he can find. On these principles he has valued the land at the time material to this case at 20 cents per square foot. He was not seriously shaken in cross-examination.

The witness Atkin-Berry arrives at the same figure by estimating what would be a reasonable return for capital laid out in developing the land in accordance with what he considers to be the best scheme. He argues that the natural development would be by building small bungalows on lots of about a quarter of an acre. As I have said above it does seem to me after weighing all the expert evidence I have heard and viewing the land and the locality myself the development advocated by the Defendants' witnesses is the most natural and probable.

This witness and the remaining two (Taylor and Edmonds) also give evidence as to betterment I do not therefore propose reviewing their evidence any further.

I have not referred much to the legal arguments of learned Counsel for the Defendants. His case substantially (though he not very emphatically seems to repudiate at times the argument of "betterment") seems to me to be that the land has been improved as a result of the drain and that this improvement should be set off against the loss of the land occupied by the drain. But I cannot find that he has quoted any authority to justify this method of assessing compensation. The weight of authority as I have indicated above seems to me in favour of the view that betterment cannot be set off against damage.

For these reasons I find that the Defendants are liable for damages. The area of 10,236 square feet is admitted. I accept the figure of 20 cents per square foot and assess the damage to be paid by the Commissioners at $2,047.20.

I dismiss the claim for damages for potential loss of a strip of land 10 feet wide on one side of the drain.

By consent costs to be ordered in the sum of $500.

Solicitors for the Claimant—*Braddell Bros.*

Solicitors for the Municipal Commissioners—

Drew & Napier.

* * * * *

[APPELLATE CIVIL JURISDICTION]

TAN HONG TEE vs. P. & O. BANKING CORPORATION.

[SINGAPORE SUIT No. 329 OF 1931]

[APPEAL No. 3 OF 1932]

Appeal to Privy Council. Stay of execution as to costs.

Where there are very exceptional circumstances the Court of Appeal will order a stay of execution as to costs on an appeal to the Privy Council unless the Solicitors for the successful party give an undertaking to refund such costs in the event of the appeal to the Privy Council being successful.

MOTION.

This motion was made to the Full Court of Appeal for stay of execution on appeal to the privy Council. Affidavits were filed alleging special circumstances which in effect amounted to allegations that if the appeal were successful the Respondent would not be in a financial position to comply with any order of His Majesty in

Council as to payment or refund of costs. Reference was made to the Order of Court made in *S. S. T. Sockalingam Chettiar* v. *Shaik Sahied bin Abdullah Bajerai* (Singapore Suit No. 1448 of 1930). The Court decided to follow the order made in that case.

Smith for Applicant (Appellant on Appeal to the Privy Council).

da Silva for Respondent (Respondent on Appeal to the Privy Council).

The full form of order was as follows:—

"Upon Motion made unto the Court this day by Counsel on behalf of the P. & O. Banking Corporation, Ltd., the defendants abovenamed and upon reading the affidavit of William Lionel Stevens sworn to and filed herein on the 30th day of June, 1932, and the affidavits of Tan Hong Tian sworn to and filed herein on the 2nd and 5th days of July respectively and upon hearing Counsel for the applicants and for the plaintiffs IT IS ORDERED that execution and all other proceedings upon the judgment of this Honourable Court dated the 25th day of June, 1932, be stayed provided that the applicants pay to the plaintiffs' solicitor the taxed costs of the appeal to this Honourable Court and the plaintiffs' taxed costs of the trial in the Lower Court within six weeks from the date of this Order upon the undertaking of the Solicitor for the plaintiffs to refund the amount of such costs in the event of an appeal to His Majesty in Council against the judgment of this Honourable Court being allowed AND IT IS FURTHER ORDERED that the sum of $1,904.09 being costs paid by the plaintiffs to the defendants under the judgment herein of the 8th day of December, 1931, be refunded by the defendants to the plaintiffs AND IT IS LASTLY ORDERED that the costs of this application be taxed and paid by the applicants to the plaintiffs in any event."

[APPELLATE CIVIL JURISDICTION]

LOW SOON WAH vs. LOW PENG SOY.

[SINGAPORE SUIT No. 1206 OF 1930]

[APPEAL No. 13 OF 1932]

Defective Memorandum of Appeal. Section 1132 Civil Procedure Code.

In a Memorandum of Appeal the points of law or fact which are alleged to have been wrongly decided must be set out specifically.

If they are not set out specifically the Court of Appeal will refuse to hear the appeal and will adjourn the appeal for a proper Memorandum to be filed, the costs of such adjournment being paid by the Appellant.

Appeal from Supreme Court to Court of Appeal. Singapore, 6th July, 1932.

The Appeal came on for hearing before Murison, C. J., Burton, J., and Terrell, J.

In this case *Palgrave Simpson, Laycock* with him (for the Respondent) took a preliminary objection that the Memorandum of Appeal was defective on the ground that it did not specify the points of law or fact alleged to have been wrongly decided. He referred to the case of *Westerhout* v. *Alkaff* reported on p. 24 of the Malayan Law Journal, Vol. I. No. 1.

Johannes contra submitted that the Memorandum was sufficient.

The Court unanimously held that the Memorandum was insufficient and stated after consultation between the members of the Court that in all future cases where the Memorandum did not specifically set out the grounds of appeal as required by S. 1132 of the Civil Procedure Code they would refuse to hear the Appeal and would adjourn the appeal at the cost of the Appellant until a proper Memorandum was filed.

Solicitors for Appellant—*Johannes & Sammy.*

Solicitors for Respondent—*Braddell Bros.*